

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

**JOSEPH BABINEAUX, JR.,
MOSES ARCENEUX and
MARK AUSTIN**

CIVIL NO.: 6:18-CV-00233

JUDGE: S. MAURICE HICKS, JR.

VERSUS

MAGISTRATE: PATICK J. HANNA

**MARK GARBER, individually and in his
official capacity as the Sheriff of Lafayette
Parish, CATHY FONTENOT, individually
and in her official Capacity as the Warden
of the Lafayette Parish Correctional Center,
JAMES LEBLANC, individually,
PERRY STAGG in his official capacity as
Assistant Deputy Secretary for Adult Services
for the Department of Public Safety and
Corrections, ANGELA GRIFFIN, in her
official capacity as Assistant Deputy Secretary
For Adult Services for the Department of
Public Safety and Corrections and BERKLEY
INSURANCE COMPANY**

JURY DEMANDED

STATEMENT OF UNCONTESTED MATERIAL FACTS

NOW INTO COURT, through undersigned counsel, comes Plaintiff, **JOSEPH BABINEAUX JR. MOSES ARCENEUX, AND MARK AUSTIN**, which submits the following Statement of Uncontested Material Facts in Opposition of their Motion for Summary Judgment:

1. On March 16, 2017, Joseph Babineaux, Jr. was sentenced to serve one-year Hard Labor for the offense of Attempted Possession of a Firearm by a Convicted Felon.
2. Moses Arceneaux was sentenced, on March 16, 2017, to five years hard labor, all but one-year hard labor suspended, four years active supervised probation for the offense of Negligent Homicide.

3. On March 30, 2017, Arceneaux was released from the Lafayette Parish Correctional Center after Judge Edward D. Rubin of the 15th Judicial District Court, Parish of Lafayette, granted a Writ of Habeas Corpus and ordered Arceneaux to be immediately released from incarceration.
4. Mark Austin was sentenced, on October 26, 2017, to seventeen months hard labor for the offense of Attempted Possession of a Firearm by a Convicted Felon.
5. All other facts asserted by the Defendants are contested and there remains a genuine issues of material facts.

Respectfully submitted:

L. CLAYTON BURGESS, A P.L.C.

605 West Congress Street
Lafayette, Louisiana 70501
Telephone: (337) 234-7573
Facsimile: (337) 233-3890

S/ L. Clayton Burgess

L. CLAYTON BURGESS (22979)

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing has this date been electronically filed with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system and/or by United States mail, postage prepaid and properly addressed, or by facsimile or email transmission.

Lafayette, Louisiana, this 2nd day of January, 2020.

/s/ L. Clayton Burgess

L. CLAYTON BURGESS